

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GERALD ALAN SHORT,

Petitioner,

v.

MITCH PERRY,

Respondent.

Case No. 09-12171

Honorable David M. Lawson

Magistrate Judge Paul J. Komives

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY**

On September 27, 2012, the petitioner filed a motion for a certificate of appealability. On August 31, 2012, the Court entered an order adopting the magistrate judge's report and recommendation, overruling the petitioner's objections, and denying the petition for a writ of habeas corpus. In the same order, the Court denied a certificate of appealability. The petitioner's motion for a certificate of appealability is moot, as the Court has already denied the relief the petitioner seeks.

Further, the Court would deny the petitioner's motion even if it were construed as a motion for reconsideration. Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(g)(1) when the moving party shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). However, motions for reconsideration should not be granted when they "merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich.

LR 7.1(g)(3). The petitioner's motion raises only issues ruled on by the Court, both expressly and by reasonable implication.

Accordingly, it is **ORDERED** that the petitioner's motion for a certificate of appealability [dkt. #26] is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: October 4, 2012

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 4, 2012.

s/Deborah R. Tofil  
DEBORAH R. TOFIL